

The Association of Consumer Support Organisations (ACSO) Submission to the Information Commissioner's Office Consultation on the 'Draft Direct Marketing Code of Practice'

The Association of Consumer Support Organisations ([ACSO](#)) welcomes the opportunity to respond to the Information Commissioner's Office (ICO) [consultation](#) on the 'draft direct marketing code of practice'.

ACSO was established in January 2019 to represent the interests of consumers in the civil justice system and the reputable, diverse range of organisations who are united in providing the highest standards of service in support of those consumers. Its role is to engage with policymakers, regulators, industry and the media to ensure there is a properly functioning, competitive and sustainable civil justice system for honest consumers.

Our response will focus upon the implications of the direct marketing code upon consumers, in particular, how to ensure they are aware of their rights and able to utilise the protections offered by the code.

As such, we welcome the ICO's repeated reiteration of consumer rights in regard to the use of personal data, namely the rights to be informed, to objection, rectification, erasure and access. In addition, an adequate overview, including signposting to other regulatory bodies, has been provided to outline the repercussions an organisation will face if it does not comply with the code.

There has been a lack of direct engagement with consumers and consumer groups in the formulation of the direct marketing code. Such engagement would serve to improve the understanding of consumer attitudes towards the collection and use of private data, as well as consumer ideas on what measures could be put in place to meet their needs.

Finally, we wish to emphasise our support of the code, the creation of which serves to clarify the rules of direct marketing. As such, we welcome the ICO's statement that "adherence to this code will be a key measure of [organisations] compliance with data protection".

Q1 Is the draft code clear and easy to understand?

Yes. The language used to outline the code, and to explain the underlying legal framework, is clear, concise and written in plain English.

However, we urge the ICO to consider ways to improve information accessibility for all consumers, with a particular focus upon the most vulnerable in society. For example, the code should be made available in audio, braille and hardback copies upon request. This will help ensure that information on individual rights in regard to personal data is accessible to the widest range of consumers.

The ICO has stated that the code assumes familiarity with key data protection and Privacy and Electronic Communications Regulation (PECR) concepts, however we welcome the inclusion

of linked resources and reading suggestions as a means to provide context and further guidance on specific issues.

In addition, we commend the ICO for outlining perceived 'loop-holes' within the direct marketing code, such as 'sugging' (selling under the guise of research) or by using a neutral tone when communicating with consumers. This helps to ensure that no organisation avoids the direct marketing rules by such means, and that consumers may be aware when an organisation is attempting to do so.

Q2 Does the draft code contain the right level of detail? (When answering please remember that the code does not seek to duplicate all our existing data protection and e-privacy guidance)

Yes. Although we urge the ICO to provide clear, succinct information, specifically tailored towards consumers, on data privacy rights.

If consumers are not aware of the rights they hold in regard to their personal information, they will be unable to utilise the protections offered by the code. Data collection is an integral part of the digital age. As such, we urge the ICO to conduct further research on how best to educate the public on data privacy rights, how data may be used and the value of private data.

Q3 Does the draft code cover the right issues about direct marketing?

In general, yes. However, as mentioned above, we note the absence of any direct consumer engagement in the formulation of the draft direct marketing code. Effective dialogue between the ICO and consumers would help ensure the code, and the outcomes it delivers, are designed around consumer needs. In particular, it would lead to the creation of a code that addresses the particular challenges consumers are likely to face.

Understanding how consumers can and do engage with direct marketing should be a central component in the formulation of the code. There exists a lack of detailed analysis on how key concepts such as trust, concern, privacy, value and control in personal data are interpreted by consumers. Any lack of clarity on terms and definitions is likely to serve as a barrier to developing a code that works in the best interest of consumers, and to the assessment of the success and value of the code. As such, we urge the ICO to engage directly with consumers and consumer-focused groups.

Q4 Does the draft code address the areas of data protection and e-privacy that are having an impact on your organisation's direct marketing practices?

Yes. We acknowledge the repeated emphasis on accountability within General Data Protection Regulation (GDPR) and PECR, thereby placing the onus on an organisation to *demonstrate* compliance, such as through the conduction of a data protection impact assessment (DPIA).

We note that GDPR does not specify the length of time an organisation should keep personal data for direct marketing purposes. The storage limitation principle states that data must not be kept for longer than needed and it is the responsibility of each organisation to determine and justify the length of time personal data is stored, however further clarification from the ICO would be welcome.

Q5 Is it easy to find information in the draft code?

Yes. In particular, we commend the specific section within the code on marketing targeted directly at children. Children represent a more vulnerable group of society, as recognised by [Recital 38](#) of the GDPR: “Children merit specific protection within regard to their personal data, as they may be less aware of the risks, consequences and safeguards concerned and their rights in relation to the processing of personal data.” As the digital landscape continues to evolve at a rapid pace, and children become exposed to online risks at an ever-younger age, it is vital that that rules on marketing to children are clear and easy to find.

We do, however, strongly urge the ICO to consider the inclusion of a section within the code specifically aimed for consumers. This should provide clear, concise information on data privacy rights including how consumers can exercise their rights in regard to objection, erasure and access of their data.

Q6 Do you have any examples of direct marketing in practice, good or bad, that you think it would be useful to include in the code?

No.

Q7 Do you have any other suggestions for the direct marketing code?

We reiterate the need for direct engagement with consumers and consumer groups in addition to research on how best to communicate data protection rights to the public.

Q8 Are you answering as:

This submission has been written on behalf of the Association of Consumer Support Organisations (ACSO).

Q9. How did you find out about this survey?

Via the ICO website.

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For further information, please contact:



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